

Mitigation Plan

Description of Requirements and Draft Documents

Background

In October 2016, the U.S. Environmental Protection Agency (EPA) finalized revisions to the Exceptional Events Rule¹, which governs the exclusion of “event-affected air quality data.” The rule revisions include a formal stand-alone Mitigation Plan for certain areas of the country, which were listed in the rule. Although elements of the Mitigation Plan have previously been included in Exceptional Events demonstrations and existing measures are generally sufficient to satisfy the requirements in the Exceptional Event Rule, states are nevertheless required to submit formal Mitigation Plans for areas listed in the rule. For Texas, those areas are El Paso and Harris Counties. The Mitigation Plans are for specific areas, pollutants, and event types. In the case of El Paso County, a plan is required for fine particulate matter 2.5 micrometers or less (PM_{2.5}) due to high winds, and for Harris County, a plan is required for PM_{2.5} for African Dust.

The Draft Mitigation Plan

The Mitigation Plan developed by the Texas Commission on Environmental Quality (TCEQ) fulfills the requirements set forth in the Exceptional Events Rule. The document titled “Mitigation Plans for Exceptional Events in Texas” details the requirements for Mitigation Plans listed in the Exceptional Event Rule and how Texas meets each of those requirements. Appendices to the Texas Mitigation Plan include: (A) a protocol for notifying stakeholders of an expected Exceptional Event; and (B) a protocol for regular communication and outreach to certain stakeholders.

Timeline

The Mitigation Plans are due to the EPA in September 2018. A 30-day public comment period is required as well as a response to comments. Given that the TCEQ has included in the draft plans coordination with agencies such as the Texas Department of State Health Services and the Texas Department of Transportation, review of the draft plans were offered to those agencies for comment prior to the public comment period.

The timeline for review is as follows:

Texas Department of Transportation, Department of State Health Services	August 2018
EPA Region 6	September 2018
Public Comment	September - October 2018
Mitigation Plan and Response to Comments to EPA Region 6	October 2018 (tentative)

Comments and questions should be sent to Stephanie Shirley in the Air Quality Division at [HYPERLINK "mailto:stephanie.shirley@tceq.texas.gov"]

Future Expectations

It is expected that once the EPA identifies areas as requiring Mitigation Plans, it will continue to require those plans to be filed and periodically updated with EPA's regional office. It is also expected that the EPA will continue to identify additional areas that require Mitigation Plans. The TCEQ envisions that the main body of the draft Mitigation Plan will continue to apply, regardless of the pollutant and area designated by the EPA, with the appendices being updated to reflect applicable mitigating measures specific to the pollutant, area, and event type (e.g. wildfire) specified by the EPA in the future.

¹ See 81 Fed. Reg. 68216 (Monday, Oct. 3, 2016); https://www.epa.gov/sites/production/files/2016-09/documents/exceptional_events_rule_revisions_2060-as02_final.pdf.